

**CORRECTED**

Ordinance No.: 17-21  
Zoning Text Amendment No.: 12-06  
Concerning: Commercial/Residential  
Zones – Transit  
Proximity Definition  
Draft No. & Date: 3 – 10/9/12  
Introduced: March 6, 2012  
Public Hearings: 4/10/12 & 9/11/12  
Adopted: October 9, 2012  
Effective: October 29, 2012

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF  
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN  
MONTGOMERY COUNTY, MARYLAND**

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By: Councilmembers Leventhal, Elrich, Andrews, and Council President Berliner

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**AN AMENDMENT** to the Montgomery County Zoning Ordinance to:

- amend the definition of transit proximity for CR, CRN, and CRT zones; and
- generally amend the parking requirements and amenity points associated with transit proximity.

By **amending** the following Division to the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-C-15.	“COMMERCIAL/RESIDENTIAL ZONES.”
Section 59-C-15.3.	“Definitions specific to the CR zones.”
Section 59-C-15.631.	“Parking Ratios.”
Section 59-C-15.852.	“Transit Proximity.”

**EXPLANATION:** ***Boldface** indicates a heading or a defined term.*  
*Underlining indicates text that is added to existing laws by the original text amendment.*  
*[Single boldface brackets] indicate text that is deleted from existing law by the original text amendment.*  
*Double underlining indicates text that is added to the text amendment by Councilmembers Floreen’s proposed amendment.*  
*[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.*  
*\* \* \* indicates existing law unaffected by the text amendment.*

**CLERK’S NOTE:** *Punctuation error corrected on page 4, line 11*

## OPINION

Zoning Text Amendment (ZTA) 12-06, sponsored by Councilmembers Leventhal, Elrich, Andrews, and Council President Berliner, was introduced on March 6, 2012. The intent of ZTA 12-06 is to eliminate the current reduction in amenities and parking spaces required for development near a Maryland Rail Commuter service (MARC) rail station for projects in CR, CRT, and CRN zones. The sponsors of ZTA 12-06 believe that MARC rail service, which provides relatively infrequent service, in-bound in the morning and out-bound in the afternoon, does not change travel behavior sufficiently to warrant treatment different from any other project.

The Montgomery County Planning Board, in its report to the Council, recommended that the text amendment be approved with amendments to create a transit level 3 to reduce the amenity points required for development near a MARC station.

The County Council held public hearings on April 10, 2012 and September 11, 2012 to receive testimony concerning the proposed text amendment. As a general matter, Kensington residents favored the approval of ZTA 12-06. Property owners opposed ZTA 12-06. The supporters of the ZTA cited the minimal utility of MARC for serving transportation needs; proximity to MARC did not reduce the need for amenities or parking requirements. Property owners believe that the ZTA undermines the foundations of the Kensington Sector Plan and undoes what the Council accomplished by amending the CR zone to create the CRT and CRN zones to facilitate revitalization under the Kensington Sector Plan. Representatives of the Konterra Property claimed that adoption of ZTA 12-06 would represent a breach of faith. In their opinion, it would renege on the implicit agreement among the Council, the Town of Kensington, and Konterra. The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held worksessions on June 18, 2012 and September 24, 2012 to review the amendment; the Committee (2-1, Councilmember Floreen dissenting) recommended approval of ZTA 12-06 as originally introduced.

The District Council reviewed Zoning Text Amendment No. 12-06 at worksessions held on June 26, 2012 and on October 9, 2012 and agreed with the recommendations of the Planning, Housing, and Economic Development Committee in part and disagreed in part. To the extent that the current Zoning Ordinance reduces the parking requirements for development near MARC Stations, the Council agreed with the Committee that those reductions are not warranted due to a development's proximity to a MARC station. The Council noted that MARC is a one directional system with infrequent service, unlike other transit on dedicated rights-of-way. Development near a MARC station would still have its parking requirement reduced from Chapter E requirements by virtue of being more than ½ mile from a Metrorail station.

The Council disagreed with the Committee recommendation to completely eliminate public benefit points for proximity to MARC. The Council agreed with reducing the current public benefit points given for MARC proximity, but not completely eliminating all points. In the

opinion of the Council, there should be some difference in public benefit points required for a development near MARC in contrast to development further from MARC.

For these reasons, and because to approve this amendment will assist in the coordinated, comprehensive, adjusted and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 12-06 will be approved as amended.

#### *ORDINANCE*

*The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:*

**Sec. 1. Division 59-C-15 is amended as follows:**

**DIVISION 59-C-15. COMMERCIAL/RESIDENTIAL ZONES.**

\* \* \*

**59-C-15.3. Definitions specific to the CR zones.**

The following words and phrases, as used in this Division, have the meaning indicated. The definitions in Division 59-A-2 otherwise apply.

\* \* \*

*Transit proximity:* Transit proximity is categorized in ~~[[two]]~~ three levels: 1. proximity to an existing or master planned Metrorail Station; 2. proximity to an existing or master planned station or stop along a rail or bus line with a dedicated, fixed path~~[[;]]~~, excluding a site that is within one mile of ~~[[a]]~~ an existing or master planned MARC station ~~[[and that is more than one mile from any other transit station serving a dedicated, fixed path transit facility.]]~~; 3. proximity to an existing or master planned MARC station. All distances for transit proximity are measured from the nearest transit station entrance or bus stop entrance.

\* \* \*

**59-C-15.631. Parking Ratios.**

Parking spaces must satisfy the following minimums and maximums unless the minimum number of parking spaces is waived under §59-C-15.636. The minimum number of spaces required is equal to the number of parking spaces that would otherwise be required by Division 59-E-3, multiplied by the applicable factor in the table, or at the rate indicated. When a maximum number of spaces is indicated, no more parking than would otherwise be required by Division 59-E-3 may be provided.

Use	CRN		CRT		CR			
Distance from a transit proximity level 1 or 2 transit station or stop	Up to ½ mile	Greater than ½ mile	Up to ½ mile	Greater than ½ mile	Up to ¼ mile	¼ to ½ mile	½ to 1 mile	Greater than 1 mile
(a) Residential								
Maximum:	None	None	59-E	None	59-E	59-E	59-E	None
Minimum:	0.8	1.0	0.7	0.8	0.6	0.7	0.8	0.9
(b) Retail and restaurant non-residential uses (gross leasable indoor area; no parking spaces are required for outdoor patron area)								
Maximum:	None	None	None	None	59-E	59-E	59-E	None
Minimum:	4 per 1,000 square feet	4 per 1,000 square feet	4 per 1,000 square feet	4 per 1,000 square feet	4 per 1,000 square feet	4 per 1,000 square feet	4 per 1,000 square feet	4 per 1,000 square feet
(c) All other non-residential uses								
Maximum:	59-E	None	59-E	None	59-E	59-E	59-E	None
Minimum:	0.8	1.0	0.6	0.8	0.2	0.4	0.6	0.8

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### 29 **59-C-15.852. Transit Proximity.**

30 Development near transit facilities encourages greater use of transit, controls sprawl, and reduces  
31 vehicle miles traveled, congestion, and carbon emissions, and is eligible for incentive density.  
32 The Planning Board may approve incentive density for transit proximity under this section.  
33 Transit proximity points are granted for proximity to existing or master planned transit stops  
34 based on transit service level and CRT and CR zones as follows:

Proximity	Adjacent or confronting			Within ¼ mile			Between ¼ and ½ mile			Between ½ and 1 mile		
Transit [[Service]] <u>Proximity</u> Level	1	2	<u>3</u>	1	2	<u>3</u>	1	2	<u>3</u>	1	2	<u>3</u>
CRT	25	15	<u>5</u>	20	12.5	<u>2.5</u>	15	10	<u>0</u>	10	7.5	<u>0</u>
CR	50	30	<u>10</u>	40	25	<u>5</u>	30	20	<u>5</u>	20	15	<u>2.5</u>

\* \* \*

**Sec. 2. Effective date.** This ordinance takes effect 20 days after the date of Council adoption.

This is a correct copy of Council action.

Linda M. Lauer

Linda M. Lauer, Clerk of the Council